

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 2:10-CR-365 JCM (PAL)

Plaintiff(s),

ORDER

v.

BRAD FUSSELL

Defendant(s).

Presently before the court is the case of *United States v. Brad Fussell*, No. 2:10-cr-00365-JCM-PAL.

On November 12, 2015, the United States Court of Appeals for the Ninth Circuit (the “appeal court”) ordered this court to collectively construe Mr. Fussell’s notice of appeal (doc. # 216) and notice that he did not receive timely notice of the court’s order (doc. # 215) as a motion to reopen time for appeal under Federal Rule of Appellate Procedure (“FRAP”) 4(a)(6). In its order, the appeal court stated that “[i]f the district court grants the [FRAP] 4(a)(6) motion, appellant does not need to file a new notice of appeal.” (Doc. # 218 at 2).

On November 19, 2015, this court entered an order granting *pro se* defendant Brad Fussell’s motion to reopen time for appeal. (Doc. # 219). In the order, the court ordered the appeal period to be reopened for 14 days from the date of that order. This is the period of time required by FRAP 4(a). Out of concern that there may be confusion amongst the parties, the court now clarifies that Mr. Fussell does *not* need to file an additional notice of appeal within the period.

Consistent with the appeal court’s order, Mr. Fussell’s original notice of appeal, filed November 2, 2015, will be deemed timely filed on *today’s date*, within the reopened time for appeal. That being the case, the periods of time within which to file with the appeals court any and

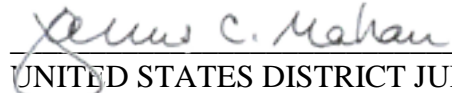
1 all papers, notices, or other documents required by the Federal Rules of Civil and Appellate
2 Procedure shall run from today's date.

3 Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the notice of appeal filed
5 by Brad Fussell on November 2, 2105, (doc. # 216) shall be deemed timely filed on the date of
6 this order.

7 IT IS FURTHER ORDERED that the clerk of the court shall serve a copy of this order on
8 defendant Brad Fussell.

9 DATED November 23, 2015.

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12 UNITED STATES DISTRICT JUDGE
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